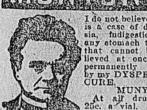
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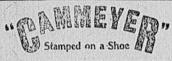
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COURT DECISIONS.

otes of Cases Recently Decided, Which are of Interest to Our People.

DICESTED BY W. B. MARTIN. (Exclusively for Virgintan-Pilot.)

N. & W. R. CO. v. STEVENS. Supreme Court of Appeals of Virginia, November 16, 1899.

THE DISTRIBUTION OF DAMAGES FOR DEATH BY WRONGFUL ACT EXCLUSIVELY, FOR THE

AN EMPLOYER IS NOT LIABLE FOR THE NEGLIGENCE OF AN INDEPENDENT CONTRACTOR EMPLOYED TO DO WORK WHICH IS LAWFUL AND NOT INTRIN-SICALLY DANGEROUS, SUCH AS BUILDING A RAILROAD BRIDGE.

T IS THE DUTY OF AN EMPLOYER TO EXERCISE ORDINARY CARE SAFE APPLIANCES, MACHINERY AND ROADWAY, AND THIS DUTY HE CANNOT ASSIGN TO AN-OTHER.

"ORDINARY

CARE."

This was a sult by the administrator of one Stephens for damages resulting from his death while a fireman of the Norfolk and Western Railway Company. That Company contracted with the Phoenix Bridge Company to build a bridge over South river in place of an old one then existing. During the work the train on which Stephens was a fireman went through the bridge and he was killed. The Phoenix Company was a careful and competent company, and the contract of the railroad company was a careful and competent company, and the contract of the railroad company was a careful and competent company. The court of the safety of those exposed to risks incident to the building of the bridge. There was a judgment for the plaintiff for \$5,000 in the lower court, and defendant appealed.

The court says:

"The manner in which the damages are to be distributed is no concern of the defendant, and not under the control of the plaintiff. It is a question for the jury exclusively, not involved in the issue." The first objection is overruled.

Nor do we think the second objec-

In the Issue." The first objection is overruied.

Nor do we think the second objection well taken, for "there is no rule of law which compels a party to state in his declaration every matter which may enhance the damages.

The third objection is well taken. There was no necessary or probate objection between the negligence which resulted in the death of the plaintiff's intestate and the nervous condition of his mother, which resulted in an atack of bronchitis. Whether or not the merely mental anguish of the mother could with propriety be considered as an element of damage we shall leave an open question.

That the Phoenix Bridge Company was an independent contractor is clear upon the law and evidence.

"An independent contractor may be defined as one who, in the course of an independent occuration, prosecutes and but an open question.

In the Issue." The first objection is goods were not lost at all, and, not being so, the consignor had no right to require the initial carrier to trace themether there is no rule being so, the consignor had no right to require the initial carrier to trace themether themether to trace themether the initial carrier to trace themether themether to trace themether the initial carrier to trace themether to trace themether themether the initial carrier to trace themether to trace themether themether to trace themether the initial carrier to trace themether the initial carrier to trace themether themether the initial carrier to trace themether to trace themether the initial carrier to trace themether themether to trace themether the initial carrier to trace themether themether themether the initial carrier to trace themether themether themether themether themether themether the plaintiffs, and under it they had no right to require the initial carrier to trace themether the initial carrier to trace themether themether themether themether themether themether themether the plaintiffs, and under it the

be merely mental angulsh of the mother could with propriety be considered as an element of damage we shall leave an open question.

That the Phoenix Bridge Company was an independent contractor is clear upon the law and evidence.

"An independent contractor may be defined as one who, in the course of an independent cocupation, prosecutes and directs the work himself, using his own method to accomplish it, and representing the will of the company only as to the result of the work. Generally where an independent contractor is employed to perform a work lawful in itself and not intrinsically dangerous, the company, if it is not negligent in selecting the contractor, is not liable for the wrongful acts or negligence of such contractor."

"According to the rule in this State the master is not required to exercise more than ordinary care for the servant, no matter how hazard-ous the business may be in which the servant is employed." "Ordinary care depends upon the circumstances of the particular case, and is such care as a person of ordinary prudence, under all the circumstances, would have exercised."

It is shown in the evidence that it is the general custom of railroad companies to construct bridges as was done in this case, and that it is not an essentially hazardous undertaking. That while it requires care to substitute a

tained by the general usages of the business."

It is shown in the evidence that it is the general custom of railroad companies to construct bridges as was done in this case, and that it is not an essentially hazardous undertaking. That while it requires care to substitute a new bridge for an old one without the interruntion of traffic, with ordinary care it may be done with entire safety. It firther appears that the Phoenix Bridge Company is an established and reputable concern largely engaged in such work, and has the confidence of the business public. The contract seems carefully to have guarded, as far as human foresight could do, against the dangers incident to the work. If the bridge company had compiled strictly with its contract the accident would not have occurred. But the railroad company is not responsible for the negligence of the Phoenix Bridge Company; it is responsible for the negligence and that of its agents and employes, while the Phoenix Bridge Company was an independent contractor. Reversed.

McBLVEEN v. SOUTHERN R. CO.

MCELVEEN v. SOUTHERN R. CO. Supreme Court of Georgia, November 9, 1899,

THE TERMS OF A BILL OF LADING CANNOT BE CONTRADICTED OR VARIED BY PAROL EVIDENCE. WHEN BY THE BILL OF LADING THE CARRIER AGREED TO CARRY FREIGHT TO A TERMI-NUS OF ITS ROAD AND THERE DELIVER IT TO A CONNECTING LINE OF RAILROAD OR STEAM-ERS, EVIDENCE OF A PAROL AGREEMENT TO DELIVER IT TO A RAILROAD AND NOT A STEAM-ER IS INADMISSIBLE, AND IT MAY BE DELIVERED TO EITHER.

This was an action against the defendant for failure to deliver goods shipped by the plaintiff over said defendants' railroad. There was a nonsuit and plaintiff appealed.

The court says:
Theevidende shows, as before set out, that before the issuance of the bill of lading the agent of the railroad com-

pany told the owner of the trees that they would not proceed by boat from Columbus, because at that time the boats were not running. But the bill of lading thereafter issued in terms provides for the transportation of the trees by the initial carrier to Columbus, and the delivery there in good order to a connecting railroad or steamer, to be forwarded to destination. Confessedly the literal terms of the bill of lading were compiled with, inasmuch as the goods were transported to Columbus, and there delivered to a line of steamers which reached Ft. Gaines by the Chattahoochee river. As a matter of the steamers which reached Ft. Gaines by the Chattahoochee river. As a matter of the steamer, subject to the order of the consignee. There can be no question but what the stipulations contained in the bill of lading must govern. These instruments are, as a matter of law, written contracts. In the case of Railroad Co. v. Hassellus, 91 Ga. 385, 17 S. E. S39, our present chief justice said, in delivering the opinion of this court, that: The office of a bill of lading is to embody the contract of carriage, as well as to evidence the receipt of the goods; and when the shipper accepts it, without objection, before the goods have been shippedand permits the carrier to act upon it by proceeding with the shipment, it is to be presumed that he has accepted it as containing the contract, and that he has assented to its terms." From these contract of law it must follow as a corrier to a flaw it must follow as a corrier to a flaw it must follow as a corrier to a flaw it must follow as a corrier and the residence of her dark for the proceeding with the shipment, it is to be presumed that he has accepted it as containing the contract, and that he has assented to its terms." From these tract of carriage, as well as to evidence the receipt of the goods; and when the shipper accepts it, without objection, before the goods have been shipped, and permits the carrier to act upon it by proceeding with the shipment, it is to be presumed that he has accepted it as containing the contract, and that he has assented to its terma." From these rules of law it must follow as a corollary that, if no mistake or fraud is charged in the execution of the contract, it would be conclusively presumed that all oral negotiations and representations, not only as to the terms and conditions on which the goods were received, but also as to the torms and conditions on which the goods were received, but also as to the torms and conditions on which the goods were received, but also as to the torms and conditions on which the goods were received as the sole evidence of the agreement between the parties. The bill of lading, then, must in this case be taken as evidence of the contract between the parties, and by its terme the contract of carriage was complied with when the railroad company delivered the goods to the connecting water carrier at Columbus. It must follow that the plaintiffs in error could not assume that the goods were lost on November 15th, when they inthey had never reached that boint by rail. It appears as a matter of fact that, at the time, the goods were not lost, but that they were being transported by the connecting water carrier, and on the 18th or 16th of November reached Ft, Galnes, and were ready for delivery to the consignee. Inasmuch as the contract authorized the shipment by the water route, it was the duty of the consignee to inquire for the goods from that carrier. The goods were not lost at all, and, not being so, the consignor had no right to require the initial carrier to trace them.

Whale in the Bay.

A large whale was seen in Chesapeake Bay last Saturday evening by Captain McNally, of the barge Mary McNally, while towing to Norfolk. The cetacean was well over to the Eastern Shore, about five miles from land, and off Back river. What called the Cap-tain's attention to him was his blowing from the spouting, he judging him to be a sixty barrel at least.

Property Transfers Yesterday. A deed was recorded yesterday transferring, from the Virginia Land Com-pany to Clara M. Johnston a lot front-ing 50 feet on the north side of Marys avenue, near Botetourt street; \$4,000,

HALLER ME TO THE HIS YEAR Cures a Cough or Cold at ouce.
Conquers Croup without fail,
Is the best for Brouchitis, Grippe,
Hoarseness, Whooping Cough, and
for the cure of Consumption.
Mothers praise it. Doctors prescribe it.
Small doses; quick, sure results.

ANDREY A. JONES.

ANDREY A. JONES.

Mr. and Mrs. M. E. Jones, of Rappahannock street, lost by death Saturday night their 4-year-old daughter, Andrey Akers Jones. The funeral was held from the home of the carents at 5 o'clock Sunday afternoon. The services were conducted by Rev. John W. Carroll, of the M. E. Church, assisted by Rev. George W. Cox, of Burrows Memorial Baptist Church. The remains were forwarded to Roanoke Sunday night for interment, accompanied by its parents.

LAWRENCE HENRY

LAWRENCE HENRY.

A seaman of the British steamship Rhodes'a, named Lawrence Heavy, hailing from Belfast, Ireland, was brought from that vessel to St. Vincent's Hespital Sunday in the last stages of consumption. He died Monday and spent the first hour. 'Captain Bate is thus a hand short, but hoped to secure a former member of his crew to fill the place. He, however, was on the Merritt's steamer Rescue at the wreck of the Ariosto, off Flatteria, and could not be reached in time, as the Rhodesia sailed last night. Henry was buried in the seamen's lot here.

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It is not what we say, but what Hood's Sarsaparilla does, that tells the story. Thousands of testimonials are examples of what Hood's has done for others, and what it will do for you.

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in stamps for particulars, testimentals and
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JUDGE HANCKEL APPOINTS THEM

FOR NORFOLK.

Judge Hanckel, of the Corporation Court, has appointed Messrs. Adam Tredwell, J. G. Womble and C. R. Par-lett as tax assessors for Norfolk real lett as tax assessors for Norfolk real cestate and improvements thereon. These assessments are made every five years, upon which to base the State and city taxes on this class of property. Since the last assessment, in 1895, real estate values in Norfolk have increased considerably, especially in certain portions of the cty.

The assessors get \$4 per day, and are allowed eix months in which to complete the work. They are allowed one clerk at \$4 per day throughout the time they are at work, and two extra clerks at the same pay, when needed. Both the assessor and clerk are required to give a \$10,000 bond.

The new assessment will begin about January let.

Mr. J. T. Clarke, floor manager for Miller, Rhodes & Co., received a very

handsome Christmas present from the employes of the establishment in the form of a house robe.

Mr. E. A. Savage, the popular and genial ticket agent of the Norfolk and Ocean View railroad, was presented with a handsome diamond scarf pin by the employes of the road as a token of the high esteem in which he is held by them. The presentation was made Christmas morning in the presence of a majority of the employes. Mr. Savage, in accepting the giff, made a neat little speech, which was received with applause by those present.

Mr. J. T. Clarke, a popular citizen of Norfolk, received a beautiful and highly appreciated Christmas gift from the employes of a large department store in Rochester, N. Y., of which he was formerly floor manager.

OTHER LOCAL ON PAGE 6

headaches

of whatever character are quickly cured by Royal Head-ache Tablets. If you are a chronic sufferer from headaches or nervousness, Royal Headache Tablets will prove to be your best friend.

You can carry a bottle everywhere; the tablets can be taken on any occasion, and will act quickly.

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Handsome Lace Curtains

Such as we are selling are bound to recommend themselves to those who recognize good quality when they see it. The curtains we are offering now are just in and are the kind that wear for several seasons, and are honest bargains at the price we ask. Call and see them.

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